

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

IN RE: DAVID STANLEY SMITH

CASE NO.: 4:19-bk-14454 B/B

CH. 13

AMENDED OBJECTION TO ALLOWANCE OF CLAIM
(Court Claim No #9 and 10)

Comes now the Debtor, by and through his attorneys, Knollmeyer Law Office, P.A. , and for his Objection to Claim, states:

1. The debtor filed a Chapter 13 bankruptcy on August 23, 2019.
2. That the deadline for creditors to file a proof of claim was November 1, 2019.
3. On February 18, 2020, Wayne English and William Burris (“creditor”) filed a secured claim (Claim 9) in the amount of \$177,296.25 (Exhibit 1) reflecting a mortgage on the debtor’s homestead located at 5709 Northhills Blvd, North Little Rock, Arkansas 72116. and a legal description of Lot 50, Block15, Overbrook addition to the City of North Little Rock, Pulaski Cuntty, Arkansas.
4. The claim alleges an arrearage of \$35,493.44.
5. On April 16, 2020, creditor filed an amended claim (Claim 10) in the amount of \$177,296.25 (Exhibit 2).
6. The claim alleges an arrearage of \$40,593.44.
7. The creditors filed an attachment to the claim which purports to reflect an itemization of the loan payment history from date of first default.
8. The attachment is incomplete and fails to comply with Bankruptcy Rule 3001.
9. That attached to the claim is a mortgage reflecting the individual, Howard Burris as mortgagee.
10. The mortgage reflects the debtor executed a promissory note to Howard Burris reflecting an indebtedness on the subject property of \$185,000 on July 26, 2004.
11. The promissory note was not attached to the creditors’ claims.
12. Debtor objects to the claims filed by creditor English & Burris pursuant to 11 U.S.C. §502(b)(1) based on insufficient proof shown that creditors are the holders of a note and mortgage against the debtor.

WHEREFORE, Debtor prays that this Court enter an Order disallowing claims #9 and #10, and for reasonable attorney fees and expenses to Knollmeyer Law Office, P.A., attorney for debtor, and for all other relief to which he is entitled.

KNOLLMAYER LAW OFFICE, P.A.

2525 John Harden Drive
Jacksonville, AR 72076
(501) 985-1760

By: /s/Lonnie Grimes
Michael Knollmeyer, AR86-105
Lonnie Grimes, AR88-033
Attorneys for Debtors

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a copy of the above and foregoing was served by electronic noticing or by United States first class mail, properly addressed and postage pre-paid this 8th day of June, 2020, upon:

Joyce Bradley Babin

John Ogles
Attorney for Wayne English
and William Burris
200 South Jeff Davis
Jacksonville, AR 72076

/s/Lonnie Grimes

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NOTICE OF OPPORTUNITY TO OBJECT

NOTICE IS HEREBY GIVEN that the captioned debtor has filed an Objection to Allowance of Claim.

YOU ARE FURTHER NOTIFIED that you have thirty (30) days from the date of this Notice to file a written objection and request a hearing. Objections must be filed with the Bankruptcy Court at 300 West Second Street, Little Rock, AR 72201. *FAILURE TO FILE AN OBJECTION TO THE OBJECTION TO ALLOWANCE OF CLAIM SHALL BE DEEMED A STATEMENT OF NO OPPOSITION TO DEBTOR'S OBJECTION TO ALLOWANCE OF CLAIM, AND THE COURT MAY ENTER, WITHOUT FURTHER NOTICE, AN ORDER DISALLOWING DEFENDANT'S CLAIM AGAINST DEBTOR/PLAINTIFF.*

If objections to the Debtor's Objection To Allowance Of Claim are filed, they will be set for hearing by subsequent notice. If no objections are received, an order dismissing Defendant's claim against Debtor/Plaintiff order will be entered without further notice or hearing.

The automatic stay shall remain in full force until modified or vacated by the Court.

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